

**JUDGE BAER**

AO 440 (Rev. 8/01) Summons in a Civil Action

## UNITED STATES DISTRICT COURT

Southern

District of

New York

JAMES M. BURKE and BRADLEY L. GROW, as  
the designated Sellers' Representatives, etc.

V.

HESTIA HOLDINGS, LLC, a Del. Limited Liability  
Company, EATERIES, INC., a Del. corporation  
and FIESTA HOLDINGS, INC., a Del. corporation

## SUMMONS IN A CIVIL ACTION

CASE NUMBER

**07 CIV 9909**

TO: (Name and address of Defendant)

Eateries, Inc.  
c/o Corporation Service Company  
2711 Centerville Road, Suite 400  
Wilmington, Delaware 19808

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

William S. Gyves  
Entwistle & Cappucci LLP  
280 Park Avenue, 26th Floor West  
New York, New York 10017  
(212) 894-7200

an answer to the complaint which is served on you with this summons, within 20 days after service  
of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you  
for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the  
Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

CLERK

(By) DEPUTY CLERK

DATE

NOV 08 2007

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**RETURN OF SERVICE**

Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE
NAME OF SERVER (PRINT)	TITLE

*Check one box below to indicate appropriate method of service*

- Served personally upon the defendant. Place where served:
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left:
- Returned unexecuted:
- Other (specify):

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICES	TOTAL
		\$0.00

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on \_\_\_\_\_  
 Date \_\_\_\_\_ *Signature of Server*

*Address of Server*

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.